19 42.

File No. Agri Debtors II/42

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Legal **DEPARTMENT**

B **BRANCH**

Subject:—

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Rules and Notifications

under the

Bombay Agri. Debtors Relief

Act, 1939

File No. Agri Debtors II/42

Std. Sectt. Slip 21 B c.

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Confidential. Agricultural debtors. Relief to ——

Government of Bombay.
Revenue Department.
Circular No.3791/33 (Confl.).
Bombay Castle, 7th April 1943.

Circular of Government.

The attention of Collectors is invited to the orders issued in Government Circular, No.3791/33 (Confl.), dated 1st May 1941, and they are informed that Government has decided to discontinue, with effect from 1st April 1943, the benefits of the Bombay Small Holders Relief Act, 1938, granted to "agricultural debtors" as defined in the Bombay Agricultural Debtors Relief Act, 1939.

2. Owing to the application of the Bombay Agricultural Debtors Relief Act to certain selected areas the Bombay Small Holders Relief Act which has been extended up to 31st March 1943 will be wholly in operation only in the areas in which neither the Bombay Agricultural Debtors Relief Act nor the Bombay Tenancy Act has been put into force. In areas where only the Bombay Tenancy Act is in force, the Bombay Small Holders Relief Act will be in partial operation, i.e., only section 9 regarding eviction of tenants will not be in force. It will, however, become wholly inoperative in the areas in which both the Bombay Agricultural Debtors Relief Act and the Bombay Tenancy Act are in force. The Collectors concerned are, therefore, requested to ask the agricultural debtors in the areas to which the Bombay Agricultural Debtors Relief Act has been applied and in respect of whose debts execution proceedings have been suspended in accordance with the orders referred to above to apply at once to the Debt Adjustment Board established in their areas for the adjustment of their debts and to inform them that on their failure to do so execution proceedings will be started for the recovery of the debt due by them to their creditors.

By order of the Governor of Bombay,

M. J. Desai,

Secretary to Government.

G.C., No.3701/33 (Confl.), R.D., dated the 7th April 1942.

To

The Commissioner, N.D.,
The Commissioner, C.D.,
The Commissioner, S.D.,
All Collectors,
The Collector of Bombay,
The Registrar of Co-operative Societies and Director of Rural Development,
The Remembrancer of Legal Affairs,
The Accountant General,
The Home Department,
The Finance Department.

- - - - -

No. of 1942.

Copy forwarded for information and guidance to

B.K.S. 30/4.

Office of the R.L.A.

If it is desired to prescribe the form of notice to be given under sub-section (1) and (2) of section 47 of the Bombay Agricultural Debtors' Relief Act, 1939, it will be necessary to frame a rule for the purpose under section 83 of the Act. The requisite draft is annexed. It inserts a new rule 28-A and a new form 8A.

2. The draft form of notice put up by R. D. at p.5 ante does not provide for notice to the Registrar of Co-operative Societies or some officer nominated by him, as required by sub-section (3) of section 47. The revised form of notice provides for such notice.

Sd/- P.M.N. 23/4
Remembrancer of Legal Affairs.

U.R. to R.D., No. 3319 , dated the 24th April 1942.

B.K.S. 30/4.

NOTIFICATION,

Revenue Department

Bombay Castle 1942.

No. The following draft of a notification which it is proposed to issue under section 83 of the Bombay Agricultural Debtors Relief Act, 1939, (Bom.XXVIII of 1939), is published as required by sub-section (3) of the said section 83 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after the 1943.

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay in the Revenue Department from any person with respect to the said draft on or before the date aforesaid will be considered by Government.

Draft Notification.

In exercise of the powers conferred by section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939), the Government of Bombay is pleased to amend the Bombay Agricultural Debtors Relief Rules, 1941, as follows, namely :-

1. After rule 26 of the said rules, the following new rule shall be inserted, namely:-

"26-A. Form of notice under sub-sections (1) and (2) of section 47. The notice to be given under sub-section (1) or sub-section (2) of section 47 shall be in form No.8A."

2. After Form No.8 appended to the

said rules, the following new form shall be inserted, namely :-

"Form No.8A

(See rule 26-A)

Notice under sub-section (1) of section 47 (2) of the Bombay Agricultural Debtors Relief Act, 1939.

Proceedings No. Year.

To

(Here enter the name of the Collector, the co-operative society, the local authority or the person entitled to maintenance, as the case may be.)

Whereas an application made under section 17 of the Bombay Agricultural Debtors Relief Act, 1939, has been received by this Board from

son of caste

resident of taluka

(debtor, creditor) for the adjustment of his debts

the debts of

Son of

resident of taluka

(debtor) hereinafter referred as the said debtor;

You are hereby required to furnish to this Board within three months from the date of the receipt of this notice a statement showing -

(a) the nature and the total amount of the debt due by the said debtor to .....**..... .....!

**(Here enter the word 'Government' or the name of the Co-operative Society, or of the local authority, or the word 'you' as the case may be.)

(b) any recurring liability against the said debtor in respect of such debt;

(c) the amount of remission which you are willing in respect of the said debt.

Copy forwarded with compliments to the Registrar of Co-operative Societies or to such officer as the Registrar may nominate in that behalf.

* To be used only in the case of any debt due to a co-operative society.

(S e a l) Chairman of the Debt Adjustment Board for
The Debt Adjustment Board for

Dated the 194 *.

By order of the Governor of Bombay,

Secretary to Government.

-.H.S. 30/4.

Office of the R.L.A.

A revised draft notification is appended.

Yd/- P.N.Moos: 19/5
Remembrancer of Legal Affairs.

U.O. to R. D. No. 4156, dated the 20th May 1943.

D.K.S. 30/4.

NOTIFICATION.

Revenue Department.

Bombay Castle 1943.

No.3791/33.- The following draft of notification, which it is proposed to issue under section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom. XXVIII of 1939), is published, as required by sub-section (3) of the said section 83 for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after 1943.

3. Any objection or suggestion which may be received by the Secretary to Government, Revenue Department, from any person with respect to the said draft before the date aforesaid will be considered by Government.

Draft Notification

No. In exercise of the powers conferred by section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939) the Government of Bombay is pleased to amend the Bombay Agricultural Debtors Relief Rules, 1941, as follows, namely :-

In rules 21 and 23, of the said rules, after the words "to be served" the words "or by a serving officer of the Board within the local area for which the Board has been established" shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

Office of the R.L.A.

Para 2 of the R.D. office note page 04 ante: The view taken at 'A' in this note is correct.

2. Para 4 of the R.D. office note at page 05 ante and the draft amendment of rule 21 at p.06 ante: The new rule 21 suggested by R.D. at p. 06 ante is not in order. The object of amending the rule as stated in para. 4 of the R.D. office note at p.05 ante is to lay down the manner in which the general notice under section 31(b) should be published. For this purpose it is not necessary to effect any amendment in the existing rule 21. A new rule 21A may be inserted in the rules after rule 21, as under :-

"21-A. Manner of publication of a general notice under section 31(b):- A general notice under clause (b) of section 31 shall be published by affixing copies of it at the offices of the Board, the Collector, the Mamlatdar or Mahalkari, the District Court and the Courts of the First and Second Class Subordinate Judges within whose jurisdiction the Board is established."

The object of the general notice under section 31(b) is to give as wide a publicity as possible to the fact that an application for adjustment of debts has been made. This is primarily for the benefit of all undisclosed creditors. It is not clear from the phrase "villages concerned" in the R.D. draft in what villages the general notice is to be published. R.D. may clarify this with reference to the purpose of the publication. If it is intended to notify those creditors whose names and addresses are furnished in the statement in the application under section 33(1)(b) or 33(2)(d), no general notice need be published at the villages of their address, since each of those creditors gets an individual notice under section 31(a). Pending clarification of

the R.D.'s intention on the point, the reference to "chavdis in the villages concerned" is omitted from the above draft of rule 21-A.

3. Para.3 of the R.D. office note at p.93 ante:- Under section 37 all pending suits and applications for execution of the kind mentioned therein for the recovery of the debts of a person have to be transferred to a Board, if such person is a debtor under the Act and if the amount of his debts is not more than Rs.15,000. Section 37 then provides that the decision of the Court on these two points shall be final. The amendment proposed to section 37 in clause 4 of the draft Bill of 1943 provides that when any such suit, application or proceeding is transferred to a Board and the necessary particulars are furnished, the Board shall proceed and the provisions of the Act shall apply as if an application had been made to the Board under section 17. This does not however mean that the Board can under section 35 decide the two points as preliminary issues under section 35(1). Section 37 expressly provides that the decision of the Court on the two points shall be final and it is not competent to the Board to go behind the decision of the Court. If the Board on taking accounts finds that the amount actually due from the debtor exceeds Rs. 15000/- there is nothing in the Act to prevent the Board from making an award for such amount exceeding Rs.15000/-. In cases where a Board finds on the preliminary issue that the total amount of the debts due does not exceed Rs.15000/- sub-section (4) of section 35 expressly provides that such finding shall not affect the power of the Board to make an award under section 24 or 34 for any sum exceeding Rs.15000/- The position in regard to cases where the Court holds under section 37 that the amount does not exceed Rs.15000/- will be the same. The view taken by Secretary, R.D. in his

marginal note at p.96 ante that in such cases if on an enquiry by the Board the debts are found to exceed Rs.15000/- only those debts before the Court which were held to be less than Rs.15000/- should be adjusted is not correct. All the debts of the debtor, whatever may be the total amount shall have to be adjusted and an award for the amount made by the Board.

4. Para.8 of the R.D. office note at p.97 ante: The view taken in the R.D. office note that, as matters stand, the Nazir of the local Sub-Judge's Court can be be appointed as a guardian for any minor ~~by~~ by a Board is not correct. It is true that under section 7(1) of the Act, a Board ~~xxxxxxx~~ has the same powers as are vested in the Civil Courts under the Code of Civil Procedure and that under rule 35 of the Bombay Agricultural Debtors Relief Rules in respect of any matter for which no provision is made in the rules, the procedure laid down in the Code shall, so far as may be, be followed by the Board in the proceedings before it. It is also true that Order 32 rule 3 of the Civil Procedure Code empowers the appointment of a proper person to be appointed as a guardian of a minor. But the provision which empowers a Court to appoint the Nazir is contained in rule 4(4) of the Order. This rule empowers the Court to appoint any of its officers as guardian. In its application to the proceedings before the Board, the rule will empower the Board to appoint one of the officers of the Board to be guardian. As the Nazir of the local court is not an officer of the Board, it will not be possible for the Board to appoint him as a guardian under this rule. If it is intended to confer such power on the Board, the Nazir will have to be appointed also an officer of the Board for the limited purpose of Order 32 rule 4(4). The object in view can be achieved by issuing an executive order to this effect and no notification for this purpose is necessary.

Sd/.-P.N.Moos 6/8

Remembrancer of Legal Affairs.

U.R. to R.D.No.,6422,dated the 7th August,1942.

B.K.S. 30/4.

Office of the R.L.A.

The draft notification at page 304 ante forwarded by the Revenue Department for the scrutiny of the R.L.A. is not complete. It will be necessary to include therein a separate amendment inserting new Form 23A in the Bombay Agricultural Debtors Relief Rules, 1941. Revenue Department may also consider whether any amendments in existing Forms 23 and 24 appended to the said rules, are to be made in view of the insertion of the proposed new form 23A. Simultaneously with any amendment of rule 32(iii)(a), consequential amendment will have to be carried out in Form 22. It is also desirable to have a specific provision in the said rules providing for supply of a pass book to the debtors. Revenue Department may consider these remarks and then forward for scrutiny of the R.L.A. the draft notification embodying therein all the amendments required in the said rules and forms.

Sd/-N.K.D.
for Remembrancer of Legal Affairs.

U.R. to R.D., No.7252, dated the 8th September 1943.

D.K.S. 30/4.

NOTIFICATION

Revenue Department,

Bombay Castle, August 1942.

Bombay Agricultural Debtors Relief Act 1939.

No.3701/33.- The following draft of a notification, which it is proposed to issue under section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom. XXVIII of 1939), is published, as required by sub-section (3) of the said section 83 for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after the 1942.

2. Any objection or suggestion which may be received by the Secretary to Government, Revenue Department, from any person with respect to the said draft before the date aforesaid will be considered by Government.

Draft Notification.

No. :-In exercise of the powers conferred by section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939), the Government of Bombay is pleased to amend the Bombay Agricultural Debtors Relief Rules, 1941, as follows, namely:-

"The colon after the words 'advanced to a debtor', occuring in Rule No.38 (iii) (a) shall be omitted and the words "and shall not advance a loan without making an entry in Form No.23-A in respect of such a loan", shall be added thereafter."

By order of the Governor of Bombay,

Sd/-S.J.Desai,
Secretary to Government.

D.K.S. 30/4.

Office of the R.L.A.

A revised draft notification is sent herewith.

2. The new form proposed by R.D. may be numbered as Form No.10A. It is presumed that all the entries in the pass-book except the signature or thumb mark of the debtor under column 8 are to be made by the authorised person. As columns 1 to 8 in R.D. draft will be filled in at one time and columns 9 to 13 subsequently, a new column 8 has been inserted in the revised draft where the authorised person will put in his signature or thumb mark at the time of filling in columns 1 to 7. As columns 5, 6 and 7 will be filled in by the authorised person after ascertaining the facts from the debtor, the headings of those columns have been suitably revised. The balance outstanding, to be specified under revised column 13, is the balance outstanding on the last date mentioned under column 10. This has been made clear in the revised draft.

3. Under new rule 29A, the authorised person is required to make an entry in the pass-book in respect of each advance. The authorised person should also be required to make an entry in respect of each repayment. The necessary provision has accordingly been made in revised draft rule 29A.

Sd/- P.N.M. 26/11.
Remembrancer of Legal Affairs.

U.O.No. to R.D., No.9504 dated the 26th November 1942.
R.K.S. 30/4.

NOTIFICATION

Revenue Department.

Bombay Castle, November 1942.

The Bombay Agricultural Debtors Relief Act, 1939.

No.3791/33.-The following draft of a notification which it is proposed to issue under section 83 of the Bombay Agricultural Debtors Relief Act. 1939 (Bom.XXVIII of 1939), is published as required by sub-section (3) of the said section 83 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after the 1942.

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay in the Revenue Department from any person with respect .. the said draft on or before the date aforesaid will be considered by Government.

Draft Notification.

In exercise of the powers conferred by section 83 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939), the Government of Bombay is pleased to amend the Bombay Agricultural Debtors Relief Rules, 1941, as follows, namely:-

1. After rule 29 of the said rules, the following new rule shall be inserted, namely:-

"29A. Issue of Pass-book to a debtor.- The Board shall issue a pass-book in Form No. 10A to every debtor in respect of whose debts an award is made under section 24, or 54 or 55.

2. In clause (i) of rule 38 of the said

rules for the second paragraph the following shall be substituted, namely:-

"(1-a) Authorised person to examine debtor's pass-book and to make entry in it in respect of each loan. The authorised person shall not advance any loan to any debtor without first examining the pass-book issued to the debtor by the Board under rule 29A and satisfying himself that the amount of loan for which the debtor has applied to him together with the outstanding amount of any previous loan taken by the debtor not exceed the amount to which he is eligible in accordance with the maximum limits fixed by the Collector under rule 39. No loan shall be advanced by the authorised person without making an entry in the debtor's pass-book in respect of such loan. The authorised person shall likewise make an entry in the pass-book in respect of each repayment made by the debtor

3. After Form No.10 appended to the said rules, the following new Form shall be inserted, namely:-

"Form No.10A.
(See Rule 29A).

Pass-book issued by the Debt Adjustment Board.....
.....

.....

(debtor), in respect of whose debts an award is made by the Board on the 194
under section 22 / section 54 / sub-section (2) of section 55 of the Bombay Agricultural Debtors Relief Act, 1939.

(Seal)

Chairman of the Debt Adjustment Board for
The Debt Adjustment Board for

Dated the 194 .

B.K.S. 30/4.

Name of the authorised person advancing loan.	Date of advance.	Amount of loan (in figures and words).		Rate of interest.
1.	2.	3		
		(a) Cash	(b) Kind	

Purpose for which loan required as ascertained from the debtor.	Area of land for which loan required as ascertained from the debtor.	Kinds of crops to be grown on the area as ascertained from the debtor.	Signature or thumb mark of debtor.
5	6	7	8

Signature or thumb mark of authorised person.	Amounts of repayment of loan.			Appropriation towards (a) Principal (b) interest.
9	10			11
	(a) Cash	(b) Kind*	(c) Date	

Balance outstanding (in figures and words) on the last date mentioned in column 10.	Signature or thumb thumb mark of authorised person.
12	13

*Details of quantity of loan or repayment in kind should be noted with the price calculated at the market rate prevailing on the day on which the advance or repayment, as the case may be, is made."

4. In Form No. 22 appended to the said rules,—

for the second paragraph of sub-clause (i) of clause 4 the following shall be substituted, namely :—

"(1-A) Authorised person to examine debtor's pass-book and to make entry in it in respect of each loan. The authorised person shall not advance any loan to any debtor without first examining the pass-book issued to the debtor by the Board under rule 29-A and satisfying himself that the amount of loan for which the debtor has applied to him together with the outstanding amount of any previous loan taken by the debtor does not exceed the amount to which he is eligible in accordance with the maximum limits fixed by the Collector under rule 30. No loan shall be advanced by the authorised person without making an entry in the debtor's pass-book in respect of such loan. The authorised person shall likewise make an entry in the pass-book in respect of each repayment made by the debtor.

By order of the Governor of Bombay,

Secretary to Government.

B.K.S. 30/4.